



International Air Transport Association

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OFFICE OF THE
CHIEF COUNSEL
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2 May, 2000

Ms. Donna R. McLean
Assistant Administrator for Financial Services
Federal Aviation Administration
800 Independence Ave. SW
Washington, D.C. 20591

Donna
Dear Ms. McLean,

I am writing in response to your letter dated March 8, 2000, in which you announce that the FAA intends to proceed by Interim Final Rule to promulgate a new set of overflight fees. Several IATA Member airlines have voiced their objection to this approach, noting that it is inconsistent with the Administrative Procedure Act and that FAA's specific legislative authority to proceed by Interim Final Rule has long since expired.

As you may know, IATA's User Charges Panel participates in user charge,; consultation meetings on a regular basis with airport and ANS charging authorities around the world. The principle of "meaningful consultation before implementation" is standard operating practice for most charging authorities and is supported by ICAO in its *Statements by the Council to Contracting States on Charges for Airports and Air Navigation Services, Document 9082/5*. The US Government has been, and continues to be, a major proponent of the development of ICAO standards and recommended practices.

In most cases, it has been very helpful for the provider of ATC services and its users to discuss charges in advance of implementation. Advance consultation gives users the opportunity to understand what they are paying for and to see that charges are cost-based, fair, equitable and non-discriminatory. I encourage the FAA to accommodate the expectation of the international aviation community to consult with users in advance of the implementation of overflight fees. Prior consultation is also consistent with the US Government position when it is representing the interests of US airlines before other charging authorities.

Surely the Agency can find some way to reconcile the interest of users in advance consultation with the strictures of the Administrative Procedure Act that are designed to eliminate private efforts to influence regulation. IATA is ready to assist by coordinating the interests of its many members who will be subject to the new fees.

Sincerely,

A handwritten signature in black ink, reading "David M. O'Connor", followed by a horizontal line.

David M.O'Connor
Director, Government & Industry Affairs - United States